

REMARKS

Claims 31 and 32, which represent particular vectors, have been amended to depend from claim 33. Claims 9, 10, 17, 20 and 42 have been amended to correct inadvertent clerical errors. None of the amendments made herein constitutes the addition of new matter.

The Requirement for Restriction

The Examiner has required restriction pursuant to 35 U.S.C. 121, alleging that the claims represent five separately patentable inventions, as set forth below.

Group I, claim(s) 1-30, 33-36, drawn to an insect gene expression system, comprising at least one gene to be expressed and at least one promoter therefor, wherein a product of a gene to be expressed serves as a positive transcriptional control factor for the at least one promoter, and whereby the product, or the expression of the product, is controllable.

Group II, claim 31, drawn to pLA513 as identified by SEQ ID NO 16.

Group III, claim 32, drawn to JY2004-tTA as identified by SEQ ID NO 14.

Group IV, claim(s) 37-41, drawn to an insect comprising in its genome, the system according to an insect gene expression system, comprising at least one gene to be expressed and at least one promoter therefor, wherein a product of a gene to be expressed serves as a positive transcriptional control factor for the at least one promoter, and whereby the product, or the expression of the product, is controllable.

Group V, claim 42, drawn to a method to establish compatibility of a promoter with a species, comprising transforming said species with a plasmid, or other vector, comprising the system according to an insect comprising in its genome, the system according to an insect gene expression system, comprising at least one gene to be expressed and at least one promoter therefor, wherein a product of a gene to be expressed serves as a positive transcriptional control factor for the at least one promoter, and whereby the product, or the expression of the product, is controllable with the promoter to be tested, said promoter being operably associated with a gene to be assayed, said plasmid further comprising a marker, under the control of a promoter appropriate to said species, the method further comprising assaying putative transgenic individuals for expression of the marker, and wherein individuals expressing the marker are subsequently assayed for expression of the gene to be assayed.

Applicants respectfully elect the claims of Group I for examination with traverse. Applicants have amended claims 31 and 32 so that they depend from claim 33 (vector claim). Accordingly, Applicants urge that these claims be considered along with those of Group I. If it is necessary to elect further within Group I, the courtesy of a telephone conference is requested so that prosecution can be expedited.

In addition, Applicants respectfully request that the claims of Group III be rejoined with those of Group I because the insects of the Group III claims comprise the genetic system of the claims of Group I.

Applicants have noted the Examiner's comments regarding the Horn et al. reference. Applicants respectfully submit that Horn does not appear to teach the same type of system as claimed, but propose to develop statements further when the Examiner has also provided a more complete discussion of the teachings of the Horn reference relative to the claimed subject matter.

It is believed that the present Response with Second Preliminary Amendment does not require the payment of any fees under 37 C.F.R. 1.16-1.17. If this is incorrect, and if any extension of time is needed, however, please grant any petition for extension of time and charge any fee due under the foregoing Rules to Deposit Account 07-1969.

Respectfully submitted,

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